IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Bhanwarlal Jat & another

Versus

The State of Rajasthan & ors.

(S.B.CIVIL WRIT PETITION NO.210/2007)

Date of order : 4th December 2007

PRESENT

Reportable **HON'BLE MR.JUSTICE DINESH MAHESHWARI**

Mr.Sandeep Bhandawat
Mr.N.R.Choudhary
Mr.Nitin Trivedi
Mr.Roshanlal
Mr.Awar Dan Charan)
Mr.B.R.Bera
Mr.B.P.Bohra
Mr.Bharat Devasi)
Mr.B.S.Deora
Mr.G.R.Punia) for the petitioners
Mr.Girish Joshi)
Mr.G.J.Gupta
Mr.J.S.Bhaleria
Mr.M.S.Godara)
Mr.M.S.Panwar
Mr.P.P.Choudhary)
Mr.P.S.Bhati
Mr.Ramdeo Potalia)
Mr.R.C.Joshi
Mr.R.S.Chouhan)
Mr.S.L.Sankhla
Mr.Sanjeet Purohit)
Mr.V.K.Sharma
Mr.V.N.Kalla
Mr.V.R.Choudhary

Mr.N.M.Lodha, AAG)
with Mr.S.M.Toshniwal) for the respondents
Mr.R.Dave, Dy.G.A.
Mr.J.P.Joshi with)
Mr.Tarun Joshi)

BY THE COURT:

This writ petition and the connected writ petitions shown in the Schedule appended to this order involving common questions of law and facts have been heard together and are taken up for disposal by this common order.

In sum and substance, all these petitions relate to the question of operation and applicability of rule 7A (iii) of the Rajasthan Employment of the Persons with Disabilities Rules, 2000 ('the Rules of 2000') for the purpose of selections to the post of Teacher Gr.III under the Rajasthan Panchayati Raj Rules, 1996 ('the Rules of 1996').

The factual aspects of the matter are not much in controversy and for the purpose of reference, the averments as taken in CWP No.210/2007 may be noticed. The respondent No.2 issued an advertisement for appointment to the post of Teacher Gr.III on 30.10.2006; and the petitioners considering themselves eligible, applied in response to the said advertisement. It has been averred that the Government of Rajasthan issued a notification dated 01.08.2005 making amendment to the Rules of 2000 whereby rule 7A was inserted which provides for concessions to the disabled persons.; that sub-rule (iii) of Rule 7A provides that the

condition or desirability of training/test/experience wherever prescribed shall not apply to the disabled persons for temporary appointment; that where a particular training is essential for appointment to a post, the disabled person may be required to receive such training within two years of his appointment. The petitioners have averred that they are disabled persons and are entitled to the benefit of the provisions of the Rules of 2000 but, while issuing advertisement, the concession as provided under rule 7A of the Rules of 2000 has not been extended to the disabled persons inasmuch as the concession in relation to the condition of teachers' training for the purpose of the said selections has not been allowed. The petitioners submit that they are entitled for such concession in relation to the eligibility condition regarding possessing of certificate, diploma or degree of B.S.T.C./B.Ed. etc. and, if selected, they will get the required training within a period of two years from the date of appointment as provided under the Rules of 2000. It may be pointed out that the petitioner in CWP No.5629/2005 applied in pursuance of similar nature advertisement issued in the year 2004 and appeared in the competitive examination; but could not obtain requisite qualification of B.Ed. before the cut-off date i.e. 05.01.2005 and hence his candidature was rejected by the letter dated 23.07.2005. The petitioner then filed the

said writ petition with the similar nature claim that in view of amendment to the Rules of 2000, precondition of training/test/experience shall not apply to the petitioner who is a disabled person. Though the candidature of the said writ petitioner had been cancelled even prior to the said amendment to the Rules of 2000 on 01.08.2005, and such amendment hardly applies to said petitioner, however, leaving such aspect aside, the said matter has also been examined on the merits of the contentions.

According to the respondents, the entire claim on the basis of new Rule 7A of the Rules of 2000 is wholly misconceived and untenable; and the petitioners are misconstruing the implication of the amended Rule 7A. It has been averred that Clause (iii) of Rule 7A clearly shows that the condition or desirability of training/test/experience wherever prescribed shall not apply to the disabled persons who are to be appointed temporarily and thus, this clause shall be attracted only in the matter of temporary appointment and not for permanent appointment; that had there been any intention of the legislature to provide such relaxation to substantive/permanent employment, there was no need to use the words "temporary appointment". It has further been averred that there are two types of appointments: (i) temporary/adhoc appointment; and (ii) substantive/permanent

appointment; that so far as the appointments to be made pursuant to the advertisement (Annex.1) are concerned, all such appointments are substantive/permanent in nature and they cannot be said to be "temporary appointment". It has been reiterated that such relaxation is available only with regard to appointment on temporary basis and not in the matter of direct recruitment through competitive examination on permanent posts. Therefore, according to the respondents, the relaxation as contained in clause (iii) of rule 7A is not at all attracted to the instant cases. Regarding construction of the provision of rule 7A (iii), the respondents have averred that the requirement of B.S.T.C. and/or B.Ed. is that of basic qualification for the post of Teacher Gr.III as prescribed under the Rules of 1996; and the basic qualifications required for the teaching purposes are determined by an expert statutory body i.e., NCTE and especially in the matter of teachers education, for all courses NCTE is the controlling authority; that so far the post of Teacher Gr.III is concerned, the mandatory basic qualification laid down by the NCTE and/or under the relevant service Rules, in addition to necessary educational qualification, is that of B.S.T.C. and/or B.Ed; therefore, for the purposes of seeking employment on the post of Teacher Gr.III one has to possess this basic qualification. The respondents contend that the

petitioners are erroneously equating the training/test and experience with the basic eligibility qualification; that rule 7A (iii) does not grant relaxation in the matter of possession of necessary qualification to hold a post; that B.Ed./B.S.T.C. cannot be said to be mere training/test or experience but is an essential qualification for being eligible for recruitment to the post of Teacher Gr.III and, therefore, the petitioners are not entitled to claim relaxation from basic qualification to hold a post by virtue of rule 7A (iii) of the Rules of 2000.

Learned counsel appearing for the petitioners have strenuously pressed for consideration the submissions that rule 7A (iii) is clearly framed in two parts. While the first part deals with the condition or desirability of any training/test/experience in relation to temporary appointments and says that such condition or desirability shall not apply in case of a disabled person eligible under the Rules for the purpose of temporary appointment; but, according to the learned counsel, the second part of rule 7A (iii) refers to the situation where any particular training is required for appointment to any post and in that relation it is provided that such particular training, if being essential, could be expected to be completed within two years of appointment of such disabled person. It has been strenuously contended that B.S.T.C./B.Ed. etc. are only of such training that might be

considered essential and are referable to the second clause of rule 7A (iii) and could, thus, be completed within two years of appointment. Hence, according to learned counsel applicability of rule 7A (iii) could not be denied to the persons like the petitioners. Learned counsel would press on the submissions that the petitioners are not running away from the training and they could be asked to complete the same within two years.

It has also been contended on behalf of the petitioners with reference to a decision of this Court in Hardayal Singh Chahar Vs. State of Rajasthan & others: 1998 WLC (UC) 593 that the expression "a post" is equivalent to the expression "any post"; and second clause of rule 7A (iii) comprehensively covers every post to which the appointments are made and there being nothing to the contrary in the enactment, there is no reason to hold that the said concession is not intended to be applicable to the appointments in question. Learned counsel for the petitioners further submitted that the qualifications provided under rule 266 of the Rules of 1996 could effectively be bifurcated into two parts. While the first part providing for Senior Secondary or Intermediate is that of essential basic educational qualification, the second part of B.S.T.C. or B.L.Ed. or B.Ed. is only towards the training to which rule 7A (iii) of the Rules of 2000 is referable to. Learned

counsel for the petitioner also pointed out from the decision of the Hon'ble Supreme Court in the case of State of Rajasthan Vs. Shyamlal Joshi; AIR 1994 SC 1409 and State of Rajasthan Vs. Kulwant Kaur: Appeal (Civil) No.694-695 of 2005, decided on 25.04.2006, that B.S.T.C. course is only a training course and has been understood so by the respondent-State itself, as asserted before the Hon'ble Supreme Court that B.S.T.C. course is a two years training course wherein training is given in various subjects. Learned counsel submitted that purposive interpretation in the matter is that the petitioners are entitled for relaxation as provided under rule 7A (iii) of the Rules subject to the condition that they would complete the training of B.S.T.C. within two years of appointment and there is no reason to deny them the concession available under rule 7A (iii).

Per contra, it has been emphasized on behalf of the respondents that rule 7A (iii) as a whole applies only to temporary appointments and has got nothing to do with permanent appointments to which the present selections are concerned with. Learned counsel for the respondents would urge that even if rule 7A (iii) has been framed apparently in two different parts, the same is intended to deal only with one single situation that is, regarding a temporary appointment; and the provision contained in the 'second part'

is nothing but in the nature of an exception or proviso to the 'first part' to the extent that even in case of temporary appointment, irrespective of the provision contained in the first part that the requirement of training might be relaxed, if such training be an 'essential one', it shall have to be undergone and completed within two years. Learned counsel submit that this interpretation alone remains that of true meaning and import of rule 7A (iii) and not of reading it in two separate clauses as suggested by the petitioners. Learned counsel stressed on the submissions that if the so-called second part was intended to deal with any appointment in contradistinction to temporary appointment, the words would have been definitely deployed conveying and signifying such meaning; and absence of any such expression like permanent appointment in the so-called second part effectively takes away the argument that such second part is a separate provision in itself.

Learned counsel for the respondents have further submitted that B.S.T.C./B.Ll.Ed./B.Ed. are all of basic qualifications as laid down by NCTE in its Regulations of 2001 and are not of a mere training that could be dispensed with. Learned counsel submitted that the aforesaid are the courses undergone by taking admission thereto on the basis of comparative merit or entrance test and are not of training

simplicitor. Learned counsel further submitted that in the context of Panchayati Raj Rules of 1996 and particularly for the appointments under rule 266 thereof, rule 7A (iii) of the Rules of 2000 has no application at all. Learned counsel further submitted that B.Ll.Ed. and B.Ed. are not mere trainings but they are graduation courses and a person could even opt for post graduation courses thereafter; and that, similarly, B.S.T.C. is also a specific course and even if a certificate is granted on completion of the course, it cannot be equated with a mere training.

Learned counsel for the petitioners rejoined with the submissions that B.S.T.C. is only a training and has been understood in that sense only. Learned counsel referred to the dictionary meaning of the word "training" signifying some practical education in any provision, art or handicraft and submitted that mere calling it a 'training course' does not alter its basic character as that of a training for the purpose of teaching; and for the purpose of operation of rule 7A (iii) that is incorporated in a beneficial legislation for physically handicapped persons, the word "training" is required to be given its true and practical meaning. Learned counsel submitted that the word "course" for the purpose of a training course could only signify the duration of such training; that course is only the process of undertaking the training and that

is how the expression "training course" is required to be understood and applied. Learned counsel also submitted that a temporary appointment is not beyond one year and, therefore, it is not correct a suggestion that second part of rule 7A (iii) refers to temporary appointments. Learned counsel for the petitioners have also referred to the decision of the Hon'ble Supreme Court in the case of Mohd. Sartaj and another Vs. State of U.P. and others: (2006) 2 SCC 315 to submit that B.S.T.C. etc. are merely of training course and cannot be equated with basic educational qualification.

Having given a thoughtful consideration to the rival submissions and having examined the law applicable to the case, this Court is of opinion that the contentions of learned counsel for the petitioners must fail; and these writ petitions deserve to be dismissed.

It shall be worthwhile to refer to the Rules aforesaid with which we are concerned in this matter. Rule 266 of the Rules of 1996 whereunder the appointments in question are to be made, in its present form after having undergone series of amendments, and to the relevant extent, reads thus:

"Rule 266.Academic Qualification- A recruit must possess minimum qualification as under:-

1. xxxxxx

2. xxxxxx

3. Primary and Upper Primary School Teacher (100% by direct recruitment):–

(a)General Education

Level-(i) Primary –	(i) Senior Secondary School certificate or Intermediate or its equivalent; and (ii) Diploma or certificate in basic teachers training of a duration of not less than two years OR Bachelor of Elementary Education (B.El.Ed.)
Level-(ii)Upper Primary (Middle school section)	(i) Senior Secondary School certificate or Intermediate or its equivalent; and (ii) Diploma or certificate in elementary teachers training of a duration of not less than two years OR Bachelor of Elementary Education (B.El.Ed.) OR Graduate with Bachelor of Education (B.Ed.) or its equivalent.

Xxx xxx xxx"

Rule 7A, as occurring in the Rules of 2000, with insertion by the notification dated 01.08.2005 reads in Hindi and English language thus:

> "7A. Concessions:- Following concessions shall be allowed to the Person with Disabilities for making him eligible for employment mentioned in rule 4:-
> (i) 5 percent of qualifying or pass marks in individual paper and in aggregate marks, wherever prescribed in any examination.
> (ii) The academic qualifications given in the certificate issued by the recognized Institute meant for the person with hearing impairment shall be considered at par with those other Institutions recognized by the Government.
> (iii) The condition or desirability of training/tests/experience wherever prescribed shall not apply to the disabled person for temporary appointment. Where a particular training is essential for appointment to a post, the disabled person may be required to receive such training within two years of his appointment."

> "7क रियायते:- नियम 4 में उल्लिखित नियोजन के लिए किसी नि:शक्त व्यक्ति को पात्र बनाने के लिए उसे निम्नलिखित रियायते अनुज्ञात की जाएंगी:-
> (i) एकल प्रश्न-पत्र में और कुल अंकों में अर्हक या उत्तीर्ण अंकों का 5 प्रतिशत जहाँ किसी परीक्षा में विहित हो।
> (ii) श्रवण शक्ति की क्षीणता वाले व्यक्ति के लिए आशयित मान्यता प्राप्त संस्थान द्वारा जारी किए गए प्रमाण-पत्र में दी गई शैक्षणिक अर्हताएं सरकार द्वारा मान्यता प्राप्त अन्य संस्थाओं की अर्हताओं के बराबर समझी जाएगी।
> (iii) प्रशिक्षण/परीक्षण/अनुभव की शर्त या वांछनीयता, जहॉ कहीं भी विहित हो नि:शक्त व्यक्तियों की अस्थाई नियुक्ति पर लागू नहीं होगी। जहॉ किसी पद पर नियुक्ति के लिए कोई विशेष प्रशिक्षण आवश्यक हो वहाँ नि:शक्त व्यक्ति से उसकी नियुक्ति के दो वर्ष के भीतर भीतर ऐसा प्रशिक्षण प्राप्त करने की अपेक्षा की जा सकेगी।"

While constructing the provisions of rule 7A (iii) of the Rules of 2000 in view of the expressions and phraseology used, the question does arise if the said rule is in two parts; and the two parts are exclusive to each other? While according to the petitioners, the rule is in two parts: first one refers to temporary appointments; and second part refers to all the appointments to any post; on the other hand, according the respondents, the rule is required to be read as a whole dealing only with temporary appointments and though there is second sentence occurring in the rule, the same is nothing else than carving out an exception to the first sentence.

Though the fundamental rule of literal interpretation tends to suggest as if rule 7A (iii) of the Rules of 2000 is in two parts but this Court is of opinion that such interpretation cannot be adopted hereto. While looking at the true meaning and intent of the said rule 7A (iii), it is noticeable that both the sentences occur in the same clause one after another; and while first sentence refers to the concession in the case of a temporary appointment, the second sentence refers to the requirement irrespective of the concession of having a training completed within two years if that be essential for any post. Though the legislature has not used any expression like "however" or "but" in between the two sentences, such

expression remains inherent and intrinsic in the set up of the said rule for various reasons.

The first and foremost reason is that if the second part of rule 7A (iii) was intended to deal with a different eventuality and the first part was meant only for temporary appointment then, necessarily, the second one would have been placed as a separate clause and not as a part of clause (iii) itself. It could be noticed that different eventualities have been dealt with in different clauses of rule 7A like clause (i) refers to the concession of 5% marks of the requisite pass marks in individual paper and in aggregate marks; and clause (ii) deals with qualification obtained by a person suffering from hearing impairment of providing equivalence of the certificate obtained by him from an institution meant for his purpose. Clause (iii) in its first part provides that condition or desirability of any training or test or experience wherever prescribed shall not apply for temporary appointment of disabled person; and, in its continuity, it provides that where for any post any particular training be the essential one, the disabled person might be expected to receive such training within two years of his appointment. If second part of rule 7A (iii) was intended to deal with any appointment to any post, it would have definitely occurred as a separate clause and not as a part of clause (iii).

Then, the difference of expressions namely "temporary appointment" occurring in the first part and "any post" as occurring in the second part are not without significance. Applying the broader rule of interpretation that *noscitur a sociis*, it is fundamental that the words and phrases take their meaning from the company they keep, and the place where they occur; and when two or more words susceptible of analogous meaning are coupled together, more general is restricted to a sense analogous to less general. The second part of rule 7A (iii) occurring in the company of first part makes it clear that the entire of clause (iii) of rule 7A is concerned with temporary appointments; it provides that the condition or desirability of training/test/ experience would not apply for temporary appointment of a disabled person but its second sentence puts a rider that <u>if such appointments be to any post where a particular training is essential, then the incumbent might be expected to complete such training within two years of such appointment</u>**.** This "appointment" is only the said appointment i.e., the temporary appointment. This Court is inclined to agree with the interpretation put by the learned counsel for the respondents that rule 7A (iii) as a whole applies only for the purpose of temporary appointments and second part is only a rider to the first part. The interpretation suggested on behalf of the petitioners does not appear to be

a correct and plausible interpretation of the rule and this Court is unable to agree with the same.

It is true that the legislature has not used any such expression that joins the two sentences occurring in rule 7A (iii) and makes the second one controlled by the first one, but the meaning and purport of such a provision cannot be lost sight of. It appears that generally speaking rule 7A(iii) purports to exempt the condition of training/test etc. for disabled person in case of temporary appointment but has made a provision, keeping in view an eventuality that a post might require some 'particular' or 'special' training, that wherever the post would require such special training, the disabled person might be expected to receive the same within two years of his appointment. The significance of the use of two different expressions 'temporary appointment' and 'appointment to a post' in these two sentences is that while the first sentence makes the general provision for temporary appointment, the second sentence slashes out one part therefrom, that is, when there be essential a particular training for a particular post, then, notwithstanding the concession while making appointment, the disabled person might be required to receive such training. This court is clearly of opinion that for its logical interpretation and for looking at its true meaning and import, the said rule 7A(iii) is required to be read as a whole as

indicated above and not in any other manner.

Another significant factor is required to be kept in view so far appointment to the post of primary school teacher is concerned. As laid down by the Hon'ble Supreme Court, an untrained teacher is anathema to the scheme of teaching the tiny tots of primary and upper primary classes. Thus, the said training has acquired the status of a mandatory requirement before a person is considered for appointment to the post of such primary or upper primary school teacher. When construing a provision that is intending to relax a mandatory requirement unless the relaxation is available in explicit terms, it cannot be allowed by way of implication. It is true that the Rules of 2000 have over-riding effect but for their very nature, of carving out exceptions by way of relaxation and concession, they could be applied only when their applicability is the only interpretation possible. Though they are of beneficial legislation but when pitted against other essential requirements that have their own object and purpose, like the one of having trained teachers, doing away with such essential requirement cannot be readily inferred and cannot be allowed unless such concession is available in no uncertain terms.

With the interpretation aforesaid, the entire substratum of the submissions of applicability of rule 7A (iii) to the present

selections is knocked out and the petitions could have been dismissed on this count alone; however, in view of the questions raised and the submissions made, it appears appropriate to take second limb of the submissions of the petitioners while leaving aside the interpretation aforesaid and, assuming for the sake of arguments that rule 7A (iii) is applicable for appointment to any post. The question still remains if B.S.T.C./B.Ll.Ed. /B.Ed. are merely those of a particular "training" that could be dispensed with at the time of entry into the service under Rule 266 of the Rules of 1996 and could be obtained within two years? The contention of the petitioners in this regard suffers from the fundamental lacunae that the aforesaid courses be taken to be merely of 'training' and not of essential 'qualification'.

Since no direct answer in the form of definition or explanation is available in the Rules of 2000 about connotation of the expression ‘special training’ as occurring in the said second part of Rule 7A(iii); and where the said rule 7A(iii) is sought by the petitioners to be applied in relation to B.Ed./B.S.T.C./B.El.Ed. as required by rule 266 of the Rules of 1996, describing them as such ‘training’, it shall be worthwhile to examine the scheme of the said rule 266 of the Rules of 1996.

Rule 266 occurs in chapter XII of the Rules of 1996; and the said chapter XII provides for procedures for entry into and various other service conditions in the Panchayati Raj Institutions. While Rule 256 provides for certain disqualifications for employment, Rule 257 deals with strength of service, rule 258 relates to categories of posts, rule 259 states the methods of recruitments, rule 260 pronounces on sources of recruitment, Rule 261 & 262 deal with reservation of vacancies, and Rule 263 for determination of vacancies. From rule 264 onwards are the provisions relating to the basic eligibility conditions of a candidate. Rule 264 requires that a candidate for appointment to the service ought to be a bona fide citizen of India; rule 265 provides for minimum and maximum of the age with relaxation for various categories; rule 267 requires that candidate must be having certificate of good character; rule 268 requires physical fitness and rule 269 prohibits canvassing for recruitment. Other set of rules thereafter deal with procedure for recruitment and other service conditions running upto Rule 298 and ending with the Schedule. In the aforesaid set up of the Rules of 1996, rule 266 occurs with the heading ‘academic qualifications’. Relevant part of Clause (3) of the said Rule 266 in its present form has already been reproduced above.

It has been pointed out that the said clause (3) in rule 266 had gone through various rounds of amendments. Earlier the clause related only to primary school teacher that now stands altered and deals with primary and upper primary school teacher; and there were existing earlier two provisos to clause (3) of rule 266. Even the qualifications for such post were different but with the pronouncements of the Hon'ble Supreme Court in cases like those of Dilip Kumar Ghosh: 2005(8) JT 271, and with this court declaring the law in relation to the appointments of primary and upper primary school teacher in the case of Kailash Chandra Harijan Vs. State of Rajasthan: 2006(1) CDR 750, the said rule 266 has been amended to bring it in conformity with the requirements laid down by the Regulations 2001 of NCTE. Be that as it may, history of development of the requirements in rule 266 being not much relevant for the present purpose, we may leave the same at that only and consider other provisions of the said rule that have bearing on the issue involved.

Significant one is the second proviso to clause (3) as was added by the Rajasthan Panchayati Raj (Fourth Amendment) Rules, 2004 made under the notification dated 01.07.2004 that reads as under,-

> "Provided further that the person who has appeared in the B.Ed./BSTC examination shall be eligible to apply for the post of primary and upper primary school teacher but he shall have to submit proof of having acquired the said educational qualification to the Rajasthan Public Service Commission before the declaration of the result of the said examination."
>
> (underlining supplied for emphasis)

The existing clause (3) of Rule 266 and entries thereto (relevant part whereof has been reproduced hereinbefore) were substituted by the Rajasthan Panchayati Raj (Amendment) Rules, 2006 under the notification dated 28.06.2006. However, the State Government has proceeded to further amend the said rule 266(3) by Rajasthan Panchayati Raj (VIth Amendment) Rules, 2006 under the notification dated 29.11.2006 (published on 01.12.2006); and thereby the following proviso has been added to the existing clause (3):

> "Provided that the person who has appeared or is appearing in the B.Ed./B.S.T.C./D.S.E./B.Ed. (Special Education) examination, shall be eligible to apply for the post of primary and upper primary school teachers (General Education/Special Education) but he shall have to submit proof of having acquired the said educational qualification to the Rajasthan Public Service Commission before the declaration of result of the competitive examination."
>
> (underlining supplied for emphasis)

It is ex facie evident that the qualification of B.Ed./B.S.T.C. and the like have been referred to and provided

as ‘educational qualification’ and not merely of training as suggested on behalf of the petitioners. Whether under the second proviso that was added on 01.07.2004 by way Fourth Amendment Rules to the then existing clause (3) or under the proviso that has now been added on 01.12.2006 to the present clause (3) by way of Sixth Amendment Rules, such qualification of B.S.T.C., B.Ed. etc. have been referred as ‘educational qualification’; and such expression effectively negates the very basis of the submissions made on behalf of the petitioners that such B.S.T.C./B.Ed. be treated merely as a training for the purpose of operation of Rule 7A(iii) of the Rules of 2000.

There appears considerable force in the submissions of the learned counsel for the respondents that the qualifications aforesaid have been provided in keeping with the requirements of minimum qualifications as required by the National Council for Teachers Education in its Regulations of 2001. The notification issued by NCTE placed for perusal before the Court prescribes the qualifications (that have been incorporated as such in rule 266 of the Rules of 1996) as ‘minimum academic and professional qualifications’. It is true that in the said qualifications, one of the qualifications is of having diploma or certificate in basic teachers training of a duration not less than two years and that remains alternative

to B.El.Ed. or B.Ed.; however, having such diploma or certificate is the requirement of minimum academic and professional qualification and is not the requirement of any such special training to which rule 7A(iii) of the Rules of 2000 is concerned with.

As noticed above, what rule 266 provides is the academic qualification as one of the essential ingredients of eligibility; what proviso to rule 266(3) signifies is that B.S.T.C./B.Ed. etc. are of 'educational qualification'; and then, the NCTE has referred them as the part of 'academic and professional qualification'. In whatever manner the said qualifications of B.S.T.C./B.Ed. are referred to i.e., whether they are called 'academic qualification' per the heading of rule 266, or 'educational qualification' as indicated in the proviso to rule 266, or 'professional qualification' as indicated by NCTE, they cannot be taken simply of a training that is intended to be dispensed with by Rule 7A(iii) of the rules of 2000.

Therefore, even when the case is viewed from the alternative angle, it is clear that B.S.T.C./B.Ed./B.El.Ed. etc. are not of that 'particular training' to which rule 7A(iii) refers to for being available for concession.

May be essentially the aforesaid are of training course as observed by the Hon'ble Supreme Court in Shyam Lal Joshi and Kartar Kaur (supra), yet and nevertheless, they

remain the ‘course’ as such; and cannot be termed as the training as contemplated by rule 7A(iii). It is noticed that such B.S.T.C./B.Ed. courses comprise not only of practical papers but of theory papers too; and it appears incorrect a proposition that such could be called some particular training that is intended to be dispensed with by rule 7A (iii). So far decision in Mohd. Sartaj is concerned, the same, instead of supporting the cause of petitioners rather goes against them. It may be pointed out that in the case of Mohd. Sartaj, the Hon'ble Supreme Court has considered U.P. Basic Education (Teachers) Service Rules, 1981 and therein various qualifications have been considered for appointment to the post of Mistress of Nursery School, Assistant Master and Assistant Mistress of Junior Basic Schools and Assistant Master and Assistant Mistress of Senior Basic Schools. Of course, the basic teachers certificate etc. have been referred therein as training qualification but nonetheless, the same has been referred under the column of 'academic qualifications'. The training certificate has also not been referred as a training simplicitor but in the form of 'training qualification'. The persons lacking in such qualifications have been found lacking in basic qualification not entitled for appointment to the post akin to the posts under the Rules of 1996 relevant for the present purposes. The Hon'ble Supreme Court said,-

> "In view of the basic lack of qualifications, they could not have been appointed nor their appointment could have been continued."

A comprehensive look at the Scheme of the Rules of 1996 and the purpose behind laying down of such qualifications, this Court has no hesitation in coming to the conclusion that the qualifications of B.S.T.C./B.Ed./B.El.Ed. as relevant for the said Rules are not of mere training relevant for the purposes of rule 7A (iii) of the Rules of 2000 but are those that of essential qualification by whatever nomenclature, the same are called or referred to.

Rule 7A (iii) of the Rules of 2000 being not intended to provide for any concession in the basic qualifications, cannot be resorted to for providing concession to a disabled person who is not holding such qualification. The submissions made on behalf of the petitioners remain bereft of substance and deserve to be rejected.

Even from practical point of view the operation of rule 7A(iii) as suggested on behalf of the petitioners that after selections the candidate may acquire training within two years, seems to be an impossibility in relation to the appointments in question. The aforesaid requirement of B.S.T.C. as enjoined by the NCTE is for having a basic tehachers training programme of two years duration. Rule 266 also provides for

the same. Now if this is to be treated as only a training for the purpose of rule 7A(iii), it would be necessary that a recruit, on the very day of joining, not only joins on his appointment but takes admission to such training course also and completes it without interruption within two years. It would be as if on the same day, a candidate could join at two places and it has to be believed that the training course would be starting for every candidate on the very date of his joining. In any other event, he cannot successfully complete such two years' training course as envisaged by rule 266 of the Rules of 1996 within two years as required by rule 7A(iii) of the Rules of 2000. The requirement of having the particular training 'within two years of appointment' as stated in rule 7A(iii) and the requirement of having a certificate or diploma in basic teachers training of a duration not less than two years are not compatible with each other; and this aspect, though not decisive, but is indicative that rule 7A(iii) of the Rules of 2000 is not applicable to rule 266 (3) of the Rules of 1996. It has been pointed out during the course of arguments that the course of B.El.Ed. is of four years' duration. It could simply not be completed within two years as contemplated by rule 7A(iii).

Having examined the matter from different angles, this Court is unable to find any proposition of interpretation possible within the frame-work of law whereby rule 7A(iii)

could be applied for the purpose of the appointments in question.

The obvious result of the discussion aforesaid is that the petitioners are not entitled for any relief.

The writ petitions fail and are, therefore, dismissed. In the circumstances of the case, the parties are left to bear their own costs.

(DINESH MAHESHWARI),J.

MK

SCHEDULE

(1) S.B.Civil Writ Petition No.3307/2007
(Chutra Ram Machra & ors. Vs. State & anr.)

(2) S.B.Civil Writ Petition No.13/2007
(Khinya Ram Vs. State & anr.)

(3) S.B.Civil Writ Petition No.7478/2006
(Mahaveer & ors. Vs. State & anr.)

(4) S.B.Civil Writ Petition No.7269/2006
(Rameshwar Lal & ors. Vs. State & ors.)

(5) S.B.Civil Writ Petition No.5400/2007
(Lakshmi Nayak & ors. Vs. State & ors)

(6) S.B.Civil Writ Petition No.5201/2007
(Ram Jas Vs. State & anr.)

(7) S.B.Civil Writ Petition No.3312/2007
(Rameshwar Badiyar Vs. State & anr.)

(8) S.B.Civil Writ Petition No.2592/2007
(Imran Khan Vs. RPSC & ors.)

(9) S.B.Civil Writ Petition No.2807/2007
(Prema Ram Bishnoi Vs. State & anr.)

(10) S.B.Civil Writ Petition No.7352/2006
(Sukh Ram & ors. Vs. State & ors.)

(11) S.B.Civil Writ Petition No.2301/2007
(Girdhari Ram Saran & ors. Vs. State & ors.)

(12) S.B.Civil Writ Petition No.2881/2007
(Kumari Seema Rani Vs. State & ors.)

(13) S.B.Civil Writ Petition No.3790/2007
(Mahender Singh Vs. State & ors.)

(14) S.B.Civil Writ Petition No.7535/2006
(Parasmal Vs. State & ors.)

(15) S.B.Civil Writ Petition No.7471/2006
(Khema Ram Vs. State & ors.)

(16) S.B.Civil Writ Petition No.2896/2007
(Rajesh Kumar & ors. Vs. State & ors.)

(17) S.B.Civil Writ Petition No.5629/2005
(Mangla Ram Vs. State & ors.)

(18) S.B.Civil Writ Petition No.7119/2006
(Kan Singh Rathore Vs. State & ors.)

(19) S.B.Civil Writ Petition No.7264/2006
(Narpat Rao & ors. Vs. State & ors.)

(20) S.B.Civil Writ Petition No.7268/2006
(Mahendra Pal Mundel & ors. Vs. State & ors.)

(21) S.B.Civil Writ Petition No.7453/2006
(Govind Ram & ors. Vs. State & ors.)

(22) S.B.Civil Writ Petition No.7454/2006
(Sukh Dev Ram & anr. Vs. State & ors.)

(23) S.B.Civil Writ Petition No.56/2007
(Prabhu Ram & ors. Vs. State & ors.)

(24) S.B.Civil Writ Petition No.241/2007
(Madanlal Vs. State & ors.)

(25) S.B.Civil Writ Petition No.267/2007
(Gopa Ram & ors. Vs. State & ors.)

(26) S.B.Civil Writ Petition No.509/2007
(Tinku Sharma Vs. State & ors.)

(27) S.B.Civil Writ Petition No.2651/2007
(Manjeet Singh & ors. Vs. State & ors.)

(28) S.B.Civil Writ Petition No.3133/2007
(Jalam Singh Vs. State & ors.)

(29) S.B.Civil Writ Petition No.3839/2007
(Chunnilal Vs. State & ors.)

(30) S.B.Civil Writ Petition No.3895/2007
(Shravan Kumar & ors. Vs. State & ors.)

(31) S.B.Civil Writ Petition No.3944/2007
(Prakash Ram Gena Vs. State & ors.)

(32) S.B.Civil Writ Petition No. 4204 /2007
(Lalit Soni Vs. State & ors.)

(33) S.B.Civil Writ Petition No.4211/2007
(Nipin Joshi Vs. State & ors.)

(34) S.B.Civil Writ Petition No4508/2007
(Hawa Singh Vs. State & ors.)

(35) S.B.Civil Writ Petition No.6690/2006
(Suresh Chandra Joshi & ors. Vs. State & ors.)

(36) S.B.Civil Writ Petition No.7474/2006
(Rajesh Pareek & anr. Vs. State & ors.)

(37) S.B.Civil Writ Petition No.1936/2007
(Tulchha Ram Vs. State & ors.)

(38) S.B.Civil Writ Petition No.3931/2007
(Suresh Kumar & ors. Vs. State & ors.)

(39) S.B.Civil Writ Petition No.3932/2007
(Futer Mal Bohra & ors. Vs. State & ors.)

(40) S.B.Civil Writ Petition No.7365/2006
(Kum. Shabnam Begum & ors. Vs. State & ors.)